



AGENDA ITEM NUMBER _____

Bernalillo County Board of County Commissioners

Meeting Date: May 24, 2005

Department: Zoning, Building, Planning & Environmental Health **Staff Contact:** Brennon Williams, Zoning Administrator

TITLE: PUBLIC HEARING: Appeal of the Board of Adjustment's determination to uphold the Zoning Administrator's decision in awarding a nonconforming use permit (CO-50009/BA-50024/ZNCU-40014)

COUNTY PLANNING COMMISSION RECOMMENDATION:

Denial of appeal.

SUMMARY:

On April 6, 2005, the Board of Adjustment (BA) voted 5-0 (Commissioner Holcomb & Montano excused) to deny the appeal and uphold the previous decision of the Zoning Administrator in granting a nonconforming use permit. The subject property is located at 10525 4th St. NW and zoned R-1. The BA decision was based on two Findings (Attachment 2).

The BA appeal centered on the granting of a nonconforming use permit (ZNCU-40014), issued by the Zoning Administrator, which documented the placement of two dwelling units and three accessory structures on the property. The appellant stated that they were part owner of the subject site, and as such, did not authorize the original applicant to make application for nonconformance. However, the BA determined that the appellant was not the legal owner of record, and could not meet their burden of proof for the appeal.

The Comprehensive Zoning Ordinance of Bernalillo County recognizes nonconformance as development and/or uses which were legally in effect when the ordinance was adopted (May 1973), but do not meet current standards. The department has a long-standing process by which owners of nonconforming properties can petition the county to recognize the status of their property, often for the sale, purchase or remodeling of their site. Additionally, the ordinance authorizes the BA "to hear and determine appeals where it is alleged there is error or abuse of discretion in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of the provisions of the ordinance" (Sec. 24.B.3.a).

ATTACHMENTS:

1. Appeal application
2. County Planning Commission Notice of Decision (April 8, 2005)
3. County Planning Commission Packet (April 6, 2005, hearing)

STAFF ANALYSIS SUMMARY:

Zoning/Building/Planning/Environmental Health:
Staff recommends denial of the appeal